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# GOVERNMENT GAZETTE

## BOLETIM OFICIAL

### GOVERNMENT OF GOA, DAMAN AND DIU

Secretariat

Law Department

Notification

L.D. 52-65

The Advocates (Amendment) Bill, 1965, as introduced in Rajya Sabha is published for general information.

Kant Desai, Under Secretary.

Panjim, 15th October, 1965.

#### The Advocates (Amendment) Bill, 1965

A Bill further to amend the Advocates Act, 1961. Be it enacted by Parliament in the Sixteenth Year of the Republic of India as follows:—

1. Short title and commencement. — This Act may be called the Advocates (Amendment) Act, 1965.

2. Amendment of section 1. — In section 1 of the Advocates Act, 1961 (hereinafter referred to as the principal Act), —

(i) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) It extends to the whole of India.”;

(ii) in sub-section (3), for the words “shall come into force”, the words, brackets and figure “shall, in relation to the territories other than those referred to in sub-section (4), come into force” shall be substituted;

(iii) after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) This Act shall, in relation to the State of Jammu and Kashmir and the Union territory of Goa, Daman and Diu and the Union territory of Pondicherry, come into force on such date as the Central Government may, by

notification in the Official Gazette, appoint, and different dates may be appointed for the said State and the different Union territories and for different provisions of this Act.”.

3. Amendment of section 3. — In section 3 of the principal Act, —

(a) in sub-section (1), —

(i) in clause (a), for the words “Madhya Pradesh, Madras”, the words “Jammu and Kashmir, Madhya Pradesh” shall be substituted;

(ii) for clause (cc), the following clauses shall be substituted, namely:—

“(cc) for the State of Madras and the Union territory of Pondicherry to be known as the Bar Council of Madras;

(ccc) for the State of Maharashtra and the Union territories of Dadra and Nagar Haveli and Goa, Daman and Diu, to be known as the Bar Council of Maharashtra;”;

(b) in sub-section (2), in clause (b), —

(i) after the words “the Bar Council of Assam”, the words “the Bar Council of Jammu and Kashmir,” shall be inserted;

(ii) the words “in accordance with the system of proportional representation by means of the single transferable vote” shall be omitted.

4. Amendment of section 8. — Section 8 of the principal Act shall be renumbered as sub-section (1) thereof, and, —

(a) in sub-section (1) as so re-numbered, for the words “one-third” and “every second year”, the words “one-half” and “every third year” shall be, and shall be deemed always to have been, respectively substituted; and

(b) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) Where, in the case of any State Bar Council, an election has been held, before the commencement of the Advocates (Amendment) Act, 1965, on the expiration of the

second year to fill the vacancies caused by the retirement of one-third of its members first elected thereto, then, notwithstanding anything contained in sub-section (1), as nearly as possible one-sixth of the members first elected to that Council shall retire on the expiration of the third year in the prescribed manner and the vacancies so caused shall be filled by the election of new members in the prescribed manner and thereafter, the provisions of sub-section (1) shall apply in relation to that Bar Council as they apply in relation to any other Bar Council."

5. Amendment of section 16. — In section 16 of the principal Act, in sub-section (2), for the words "experience and standing at the Bar", the words "standing at the Bar or special knowledge or experience in law" shall be substituted.

6. Amendment of section 24. — In section 24 of the principal Act, in clause (a) of sub-section (3), the words, figures and letters "before the 31st day of March, 1964" and "then in force" shall be omitted.

7. Amendment of section 42. — In section 42 of the principal Act, after sub-section (3) the following sub-section shall be inserted, namely: —

"(4) Notwithstanding the absence of the Chairman or any member of a disciplinary committee on a date fixed for the hearing of a case before it, the disciplinary committee may, if it so thinks fit, hold or continue the proceedings on the date so fixed and no order made by the disciplinary committee in any such proceeding shall be invalid merely by reason of the absence of the Chairman or member thereof on any such date."

8. Substitution of section 44. — For section 44 of the principal Act, the following section shall be substituted, namely: —

"44. *Review and reconsideration of orders by disciplinary committee.* — (1) The disciplinary committee of a Bar Council may, of its own motion or otherwise, —

(i) review or reconsider any order passed by it under this Chapter, or

(ii) reconsider any order passed, before the commencement of this Chapter, by any court or authority in relation to disciplinary proceeding against a person who is enrolled as an advocate under this Act, or who was an advocate under the Indian Bar Councils Act, 1926, and pass such order as it may deem fit and any such order may include a direction for the reinstatement of such person as an advocate: 38 of 1926.

Provided that no order which prejudicially affects any person shall be passed under this section without giving him an opportunity of being heard.

(2) No order passed by a State Bar Council under sub-section (1) shall have effect, unless it has been approved by the Bar Council of India."

9. Insertion of new section 46A. — After section 46 of the principal Act, the following section shall be inserted, namely: —

"46A. *Financial assistance to State Bar Council.* — The Bar Council of India may, if it is satisfied that any State Bar Council is in need of funds for the purpose of performing its functions under this Act, give such financial assistance as it deems fit to that Bar Council by way of grant or otherwise."

10. Insertion of new sections 58AA, 58AB and 58AC. — After section 58A of the principal Act, the following sections shall be inserted, namely: —

"58AA. *Special provision with respect to certain persons migrating to India.* — Notwithstanding the repeal by this Act of the provisions of the Legal Practitioners Act, 1879 or of 18 of 1879. any other law relating to the admission and enrolment of legal practitioners (hereafter in this section referred to as such Act or law), every person who migrates to the territory of India from any area which, before the 15th day of August, 1947 was comprised within India as defined in the Government of India Act, 1935 and who has, before such migration, been a pleader, mukhtar or revenue agent in any such area under any law in force therein, may be admitted and enrolled under the relevant provision of such Act or law as a pleader, mukhtar or, as the case may be, revenue agent if he —

(a) makes an application for the purpose to the appropriate authority under such Act or law; and

(b) is a citizen of India and fulfils other conditions, if any, specified in this behalf by the appropriate authority aforesaid; and notwithstanding the repeal by this Act of the relevant provisions of such Act or law, every pleader, mukhtar or revenue agent so enrolled shall have the same rights as respects practice in any court or revenue office or before any other authority or person and be subject to the disciplinary jurisdiction of the same authority to which he would be subject under the relevant provisions of such Act or law as if they had not been repealed and accordingly, those provisions shall have effect in relation to such persons.

58AB. *Special provisions in relation to certain Union territories.* —

(1) Notwithstanding anything contained in this Act, all persons who, immediately before the date on which the provisions of Chapter III are brought into force in any Union territory referred to in sub-section (4) of section 1, were entitled to practise the profession of law (whether by way of pleading or acting or both) under any law in force in such Union territory or who would have been so entitled had they not been in public service on the said date, shall, for the purposes of clause

(a) of sub-section (1) of section 17, be deemed to be persons who were entered as advocates on the roll of a High Court under the Indian Bar Councils Act, 1926, and every such person may, on an application made in this behalf within such time as may be specified by the concerned State Bar Council, be admitted as an advocate on the State roll maintained in respect of that Union territory: 38 of 1926.

Provided that the provisions of this sub-section shall not apply to any person, in the Union territory of Goa, Daman and Diu, who is not a citizen of India on the date of the application aforesaid.

(2) Notwithstanding anything contained in this Act, every person who, immediately before the date on which the provisions of Chapter IV are brought into force in any Union territory referred to in sub-section 1, was practising the profession of law (whether by way of pleading or acting or both or in any other way) by virtue of the provisions of any law in force in such Union territory, who does not elect to be or is not qualified to be, enrolled as an advocate under sub-section (1), shall, notwithstanding the repeal by this Act of the relevant provisions of such law, continue to enjoy the same rights as respects practice in any court or revenue office or before any authority or person and be subject to the disciplinary jurisdiction of the same authority which he enjoyed, or, as the case may be, to which he was subject, immediately before the said date and accordingly the relevant provisions of the law aforesaid shall have effect in relation to such person as if they had not been repealed.

(3) On the date on which this Act or any part thereof comes into force in any Union territory referred to in sub-section (4) of section 1, the law in force in that Union territory which corresponds to this Act or such part and which does not stand repealed by virtue of the provisions of section 50 of this Act, shall also stand repealed.

58AD. *Special provisions in relation to Jammu and Kashmir.*—(1) Notwithstanding anything contained in this Act, all advocates who, immediately before the date on which the provisions of Chapter III are brought into force in the State of Jammu and Kashmir, were entitled to practise in the High Court of that State or who would have been so entitled had they not been in public service on the said date shall, for the purpose of clause (a) of sub-section (1) of section 17, be deemed to be persons who were entered as advocates on the roll of a High Court under the Indian Bar Councils Act, 1926 and every such person may, on any application made in this behalf within such time as may be specified by the Bar Council of India, be admitted as an advocate on the State roll maintained in respect of the said State. 38 of 1926.

(2) Notwithstanding anything contained in this Act, every person who, immediately before the date on which the provisions of Chapter III are brought into force in the State of Jammu and Kashmir, was entitled otherwise than as an advocate to practise the profession of law (whether by way of pleading or acting or both) by virtue of the provisions of any law in force in the said State, or who would have been so entitled had he not been in public service on the said date, may be admitted as an advocate on the State roll maintained in respect of the said State, if he—

(i) makes an application for such enrolment in accordance with the provisions of this Act; and

(ii) fulfils the conditions specified in clauses (a), (b) (e) and (f) of sub-section (1) of section 24.

(3) Notwithstanding anything contained in this Act, every person who, immediately before the date on which the provisions of Chapter IV are brought into force in the State of Jammu and Kashmir, was practising the profession of law (whether by way of pleading or acting or both or in any other way) by virtue of the provisions of any law in force therein, who does not elect to be or is not qualified to be enrolled as an advocate under sub-section (1) or sub-section (2) shall, notwithstanding the repeal by this Act of the relevant provisions of such law, continue to enjoy the same rights as respects practice in any court or revenue office or before any authority or person and be subject to the disciplinary jurisdiction of the same authority which he enjoyed, or as the case may be, to which he was subject, immediately before the said date and accordingly the relevant provisions of the law aforesaid shall have effect in relation to such person as if they had not been repealed.

(4) On the date on which this Act or any part thereof comes into force in the State of Jammu and Kashmir, the law in force in that State which corresponds to this Act or such part thereof which does not stand repealed by virtue of the provisions of section 50 of this Act shall also stand repealed.

#### STATEMENT OF OBJECTS AND REASONS

The Advocates Act enacted in May 1961 provides for a unified all-India Bar with one class of legal practitioners, namely, advocates who would be entitled to practise in all the courts in India including the Supreme Court. At present this Act extends to the whole of India except the State of Jammu and Kashmir, the Union territory of Goa, Daman and Diu and the Union territory of Pondicherry. The object underlying the Act cannot be fully achieved unless it extends to those areas also. It is therefore proposed to extend the Act to the whole of India including the aforesaid areas. The Government of Jammu and Kashmir and the Administration of the said Union territories were consulted in regard to this matter and they have agreed to the proposal. It is proposed that the State of Jammu and Kashmir will have a separate Bar Council consisting of fifteen members, while the Union territory of Pondicherry and the Union territory of Goa, Daman and Diu will have common Bar Councils with that of Madras and Maharashtra respectively. The legal practitioners

practising in those areas have been given the right to get themselves enrolled as advocates under the Act. If, however, some of the legal practitioners do not get themselves so enrolled as advocates, their existing rights will be preserved.

2. Under the existing Act, the term of office of elected members of a State Bar Council is six years with one-third of them retiring every second year and the election is held in accordance with the system of proportional representation by means of the single transferable vote. In order to avoid frequent elections involving heavy expenses and for convenience, it is now proposed that election would be held every third year with one-half of the members retiring, and the system of direct election by a simple majority would be adopted.

3. Certain legal practitioners have, on account of disturbances, migrated from Pakistan to India and it is proposed to enable them to carry on their practice of law in India. As some of the State Bar Councils are finding it difficult to carry on their functions with the limited resources at their disposal, the Bar Council of India is being empowered to give financial assistance to any State Bar Council.

4. The working of the Act has revealed certain other difficulties also and opportunity is being taken to remove them by making suitable amendments which are of a minor character.

5. The Bill seeks to achieve the above objects and the notes on clauses appended to the Bill explain the provisions thereof.

New Delhi;

The 21st September, 1965.

A. K. SEN.

#### *Notes on clauses*

*Clause 2.* — This clause seeks to extend the Advocates Act to the State of Jammu and Kashmir and to the Union territories of Goa, Daman and Diu and of Pondicherry. The date of commencement of the Act in the said State and the Union territories will be such as may be determined by the Central Government by notification and different dates may be chosen in respect of different areas and for different provisions of this Act. Section 1 has been suitably amended for the purpose.

*Clause 3.* — Section 3 deals with the constitution of the State Bar Councils. It is proposed to have a separate Bar Council consisting of fifteen members for the State of Jammu and Kashmir while the Union territory of Pondicherry and the Union territory of Goa, Daman and Diu will have common Bar Councils with that of Madras and Maharashtra respectively.

Section 3(2) (b) provides that the election of the members of the State Bar Councils shall be in accordance with the system of proportional representation by means of the single transferable vote. On the suggestion of the Bar Council of India, it is proposed to substitute this system by the system of direct election by a simple majority as was the case under section 5 of the Indian Bar Councils Act, 1926. This clause seeks to amend section 3 for the purposes aforesaid.

*Clause 4.* — Under section 8 of the Act, the term of office of the elected members of the State Bar Council is six years with one third of the members retiring on the expiration of every second year. The Bar Council of India has represented that elections to the State Bar Councils involve considerable expenditure and that it may be held every third year instead of every second year with one-half of the members retiring. This clause seeks to amend section 8 to achieve the purpose.

Proposed sub-section (2) is consequential in nature and is intended to bring the cases wherein election of one-third of the members has already been held before enforcement of this amending Act, within the purview of the modified provision.

*Clause 5.* — This clause seeks to amend section 16 of the Act with a view to making it clear that any special knowledge or experience in law will also be taken into account in designating an advocate as senior advocate.

*Clause 6.* — Section 24 enumerates the persons who may be admitted as advocates and the conditions they should satisfy. In sub-section (3) of that section, which was introduced by Act 21 of 1964, it is provided that vakil, pleader or mukhtar who has put in three years as such before the 31st March, 1964, may be admitted as an advocate. It now appears that certain Mukhtars and pleaders could not get themselves enrolled in time or have not been able to complete three years of practice before the specified date. This is a very small category of persons and it is considered desirable that they should be made eligible to get themselves enrolled as advocates. This clause seeks to amend sub-section (3) of section 24 to achieve the purpose.

*Clause 7.* — The Bar Council of India has represented that it has become difficult to effect speedy disposal of the proceedings before the disciplinary committee due to the absence of one member or other at a hearing. It has been suggested that a suitable provisions may be made enabling the disciplinary committee to proceed with the hearing of a case even in the absence of any member thereof. This clause seeks to amend section 42 for the purpose.

*Clause 8.* — Section 44 provides for review by the disciplinary committee of orders passed by it. It has now been represented that the Bar Councils should have also the power to re-consider any order passed by it. Prior to the commencement of Chapter V of the Act, orders have been passed by the appropriate authorities under the Indian Bar Councils Act, 1926. The Bar Council of India has suggested that they should also have the power to re-consider such orders as well. This clause seeks to modify section 44 for the purpose. It is also being provided that any order passed under the new section shall not effect unless it is approved by the Bar Council of India.

*Clause 9.* — Certain State Bar Councils have complained that they do not have adequate funds to carry on their functions under the Act. It is, therefore, considered necessary to have a provision enabling the Bar Council of India to give financial assistance to any needy State Bar Council by way of grant or otherwise. This clause seeks to insert new section 46A for the purpose.



**Clause 10.**—Certain legal practitioners (pleaders, mukhtars and revenue agents) who, on account of disturbances, have migrated from Pakistan to India are unable to carry on their profession of law in India for want of necessary legal provision in this behalf. It is considered necessary to preserve for them the rights to get enrolled as pleader, mukhtar, revenue agent, as the case may be, under the Legal Practitioners Act, 1879 or other law relating to admission and enrolment of legal practitioners, notwithstanding the repeal of the same by the Advocates Act. New section 58AA inserted by this clause is intended to achieve the purpose.

With the extension of the Advocates Act to the State of Jammu and Kashmir and the Union territory of Pondicherry and the Union territory of Goa, Daman and Diu, the legal practitioners there have to be given the right to get themselves enrolled as advocates subject to their satisfying certain conditions. The rights of those legal practitioners who do not elect to be enrolled as advocates have also to be preserved. New sections 58AB and 58AC inserted by this clause are intended to achieve the purpose.

#### ANNEXURE

Extracts from the Advocates Act, 1961 25 of 1961

\* \* \* \* \*

#### CHAPTER I

##### Preliminary

#### 1. Short title, extent and commencement.—

(1) \* \* \* \* \*

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

\* \* \* \* \*

#### CHAPTER II

##### Bar Councils

3. State Bar Councils.—(1) There shall be a Bar Council—

(a) for each of the States of Andhra Pradesh, Bihar, Gujarat, Madhya Pradesh, Madras, Mysore, Orissa, Rajasthan and Uttar Pradesh, to be known as the Bar Council of that State;

\* \* \* \* \*

(cc) for the State of Maharashtra and the Union territory of Dadra and Nagar Haveli, to be known as the Bar Council of Maharashtra;

\* \* \* \* \*

(2) A State Bar Council shall consist of the following members, namely:—

\* \* \* \* \*

(b) in the case of the Bar Council of Assam, the Bar Council of Orissa and the Bar Council of Delhi, fifteen members and in every other case, twenty members, elected in accordance with the system of proportional representation by means of the single transferable vote from amongst advocates on the electoral roll of the State Bar Council:

\* \* \* \* \*

8. Term of office of members of State Bar Council.—The term of office of the elected members of a State Bar Council shall be six years, but as nearly as possible one-third of the members first elected to each such Council (reconstituted on the expiry of the term of office of the elected members of the State Bar Council under section 54) shall retire on the expiration of every second year in the prescribed manner, and the vacancies so caused shall be filled by the election of new members in the prescribed manner.

\* \* \* \* \*

#### CHAPTER III

##### Admission and enrolment of advocates

16. Senior and other advocates.—(1) \* \*

(2) An advocate may, with his consent, be designated as senior advocate if the Supreme Court or a High Court is of opinion that by virtue of his ability, experience and standing at the Bar he is deserving of such distinction.

\* \* \* \* \*

24. Persons who may be admitted as advocates on a State roll.—(1) \* \*

(3) Notwithstanding anything contained in sub-section (1) a person who—

(a) before the 31st day of March, 1964, has, for at least three years, been a vakil or a pleader or a mukhtar, or was entitled at any time to be enrolled under any law then in force as an advocate of a High Court (including a High Court of a former Part B State) or of a Court of Judicial Commissioner in any Union territory; or

\* \* \* \* \*

44. Review of orders by disciplinary committee.—The disciplinary committee of a Bar Council may of its own motion or otherwise review any order passed by it under this Chapter:

Provided that no such order of review of the disciplinary committee of a State Bar Council shall have effect unless it has been approved by the Bar Council of India.

\* \* \* \* \*

(Shri Asoke K. Sen,

Minister of Law and Social Security).

## Legislative Assembly of Goa, Daman and Diu

## Legislature Department

LA/3468/65

The following Act passed by the Legislative Assembly of Goa, Daman and Diu received the assent of the President of India on the 11th November 1965 and is hereby published for general information.

## Goa, Daman and Diu Industrial Development Act, 1965

(No. 22 of 1965) [11th November 1965]

An Act to make special provision for securing the orderly establishment in industrial areas and industrial estates of industries in the Union Territory of Goa, Daman and Diu and to assist generally in the organisation thereof, and for that purpose to establish an Industrial Development Corporation, and for purposes connected with the matters aforesaid.

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Sixteenth Year of the Republic of India as follows:—

## CHAPTER I

## Preliminary

1. Short title, extent and commencement. — (1) This Act may be called the Goa, Daman and Diu Industrial Development Act, 1965.

(2) It extends to the whole of the Union Territory of Goa, Daman and Diu.

2. Definitions. — In this Act, unless the context otherwise requires, —

(a) «amenity» includes road, supply of water or electricity, street lighting, drainage, sewerage, conservancy and such other convenience as the State Government may, by notification in the Official Gazette, specify to be an amenity for the purposes of this Act;

(b) «building» means any structure or erection, or part of a structure or erection, which is intended to be used for residential, industrial, commercial or other purposes, whether in actual use or not;

(c) «Collector» means the Collector of a district, and includes any officer specially appointed by the State Government to perform the functions of a Collector under this Act;

(d) «Corporation» means the Goa, Daman and Diu Industrial Development Corporation established under section 3;

(e) «development», with its grammatical variations, means the carrying out of building, engineering, quarrying or other operations in, on, over or under land, or the making of any material change in any building or land, and includes re-development, but does not include mining operations; and «to develop» shall be construed accordingly;

(f) «engineering operations» include the formation or laying out of means of access to a road or the laying out of means of water supply;

(g) «industrial area» means any area declared to be an industrial area by the State Government by notification in the Official Gazette, which is to be developed and where industries are to be accommodated;

(h) «industrial estate» means any site selected by the State Government where the Corporation builds

factories and other buildings and makes them available for any industries or class of industries;

(i) «means of access» includes a road, wharf or any means of access, whether private or public, for vehicles or boats or for foot passengers;

(j) «premises» means any land or building or part of a building and includes —

(i) the garden, grounds and out-houses, if any, appertaining to such building or part of a building; and

(ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof;

(k) «prescribed» means prescribed by rules made under this Act;

(l) the expression «land» and the expression «person interested» shall have the meanings respectively assigned to them in section 3 of the Land Acquisition Act, 1894, (I of 1894);

(m) «State Government» means the Administrator of the Union Territory of Goa, Daman and Diu, appointed under Article 239.

## CHAPTER II

## Establishment and Constitution of the Corporation

3. Establishment and incorporation. — (1) For the purposes of securing and assisting in the rapid and orderly establishment and organisation of industries in industrial areas and industrial estates in the Goa, Daman and Diu, there shall be established by the State Government by notification in the Official Gazette a Corporation by the name of the Goa, Daman and Diu Industrial Development Corporation.

(2) The said Corporation shall be a body corporate with perpetual succession and a common seal, and may sue and be sued in its corporate name, and shall be competent to acquire, hold and dispose of property both movable and immovable, and to contract, and do all things necessary for the purposes of this Act.

4. Constitution. — (1) The Corporation shall consist of the following nine members, that is to say —

(a) two official members nominated by the State Government, of whom one shall be the Financial Adviser to the Corporation;

(b) a representative of the Electricity Department;

(c) a representative of housing organisation such as a Housing Board established by law or order of the State Government;

(d) four members nominated by the State Government, from amongst persons appearing to Government to be qualified as having had experience of, and having shown capacity in, industry or trade or finance or who are in the opinion of the State Government capable of representing the interests of persons engaged or employed therein; and

(e) the Chief Executive Officer of the Corporation, ex-officio, who shall also be the Secretary of the Corporation.

(2) The State Government shall appoint one of the members of the Corporation to be the Chairman of the Corporation. The State Government may, if it thinks fit, appoint one of the other members as Vice-Chairman.

**5. Disqualification for membership.**—A person shall be disqualified for being nominated as a member of the Corporation, if he—

(a) is an employee of the Corporation, not being the Chief Executive Officer, or

(b) is of unsound mind, and stands so declared, by a competent court, or

(c) is an undischarged insolvent, or

(d) is convicted of an offence involving moral turpitude within a period of five years immediately before his being nominated as a member.

**6. Term of office and conditions of service of members.**—(1) The Chairman, Vice-Chairman (if any), and members of the Corporation nominated under clauses (a) to (d) of sub-section (1) of section 4, shall hold office for a period of two years from the date of their nomination.

(2) The members of the Corporation nominated under clause (a) or (d) of sub-section (1) of section 4 other than a Minister as defined in section 2 (d) of the Goa, Daman and Diu Salaries and Allowances of Ministers Act, 1964 shall be entitled to draw such salary and allowances as may be prescribed. Such reasonable additional remuneration, as may be fixed by the State Government, may be paid to any member other than a Minister as defined above for extra or special services required to be rendered by him.

(3) The members of the Corporation nominated under clause (c) shall be entitled to draw such honorarium or compensatory allowance for the purpose of meeting the personal expenditure in attending the meetings of the Corporation or of any Committee thereof or appointed in connection with the work undertaken by or for the Corporation, as may be prescribed.

(4) Any person nominated as a member on one or more occasions shall, unless disqualified, be eligible for re-nomination.

(5) It is hereby declared that the office of member or chairman of the Corporation, in so far as it is an office of profit under the Government of India, or the Government of any State, or the Government of any Union Territory shall not disqualify the holder for being chosen as, and for being a member of the Legislative Assembly of Goa, Daman and Diu.

**7. Meetings of Corporation.**—(1) The Corporation shall meet as such times and places, and shall subject to the provisions of sub-section (2) observe such rules of procedure in regard to the transaction of its business as may be provided by regulations made under this Act.

(2) A member, who is directly or indirectly concerned or interested in any contract, loan, arrangement or proposal entered into or proposed to be entered into by or on behalf of the Corporation, shall at the earliest possible opportunity disclose the nature of his interest to the Corporation, and shall not be present at any meeting of the Corporation when any such contract, loan, arrangement or proposal is discussed.

**8. Cessation of membership.**—(1) If a member—

(a) becomes, subject to any of the disqualifications mentioned in section 5, or

(b) tenders his resignation in writing to, and such resignation is accepted by, the State Government, or

(c) is absent without the Corporation's permission from three consecutive meetings of the Corporation, or from all meetings of the Corporation for three consecutive months, or

(d) is convicted of an offence involving moral turpitude,—he shall cease to be a member of the Corporation.

(2) The State Government may by order suspend from office for such period as it thinks fit, or remove from office any member of the Corporation, who in its opinion—

(a) has refused to act, or

(b) has become incapable of acting, or

(c) has so abused his position as member as to render his continuance on the Corporation detrimental to the interest thereof or of the general public, or

(d) is otherwise unfit to continue as a member.

Provided that, a member shall not be suspended or removed from office unless he has been given reasonable opportunity to show cause against the order.

**9. Vacancies how to be filled.**—Any vacancy of a member of the Corporation shall be filled as early as practicable, in like manner as if the appointment were being made originally:

Provided that, during any such vacancy the continuing members may act as if no vacancy had occurred.

**10. Temporary absence of members.**—(1) If the Chairman or any other member of the Corporation is by reason of illness or otherwise rendered temporarily incapable of carrying out his duties, or is granted leave of absence by the State Government, or is otherwise unable to attend to his duties in circumstances not involving the cessation of his membership, the State Government may appoint another person to act for him and carry out his duties and functions by or under this Act. Such person shall vacate office on the date when the member for whom he is acting resumes his duties.

(2) If a Vice-Chairman has been appointed, in the absence of the Chairman the Vice-Chairman shall be competent to carry out the duties and functions of the Chairman.

**11. Proceeding presumed to be good and valid.**—No disqualification of, or defect in the appointment of any person acting as the Chairman or Vice-Chairman or a member of the Corporation, shall vitiate any act or proceeding of the Corporation, if such act or proceeding is otherwise in accordance with the provisions of this Act.

**12. Officers and servants of the Corporation.**—(1) The State Government shall appoint a Chief Executive Officer, and a Chief Accounts Officer of the Corporation.

(2) The Corporation may appoint such other officers and servants, subordinate to the officers mentioned in sub-section (1), as it considers necessary for the efficient performance of its duties and functions.

(3) The conditions of appointment and service of the officers and servants of the Corporation and their scales of pay shall —

(a) as regards the Chief Executive Officer and the Chief Accounts Officer, be such as may be prescribed, and

(b) as regards the other officers and servants, be such as may be determined by regulations made under this Act.

### CHAPTER III

#### Functions and Powers of the Corporation

13. **Functions.** — The functions of the Corporation shall be —

(i) generally to promote and assist in the rapid and orderly establishment, growth and development of industries in the Union Territory of Goa, Daman and Diu.

(ii) in particular, and without prejudice to the generality of clause (i), to —

(a) establish and manage industrial estates at places selected by the State Government;

(b) develop industrial areas selected by the State Government for the purpose and make them available for undertakings to establish themselves;

(c) assist financially by loans industries to move their factories into such estates or areas;

(d) undertake schemes or works, either jointly with other corporate bodies or institutions, or with Government or local authorities, or on an agency basis, in furtherance of the purposes for which the Corporation is established and all matters connected therewith.

14. **General powers of the Corporation.** — Subject to the provisions of this Act, the Corporation shall have power —

(a) to acquire and hold such property, both movable and immovable as the Corporation may deem necessary for the performance of any of its activities, and to lease, sell, exchange or otherwise transfer any property held by it on such conditions as may be deemed proper by the Corporation;

(b) to purchase by agreement or to take on lease or under any form of tenancy any land, to erect such buildings and to execute such other works as may be necessary for the purpose of carrying out its duties and functions;

(c) to provide or cause to be provided amenities and common facilities in industrial estates and industrial areas and construct and maintain or cause to be maintained works and buildings therefor;

(d) to make available buildings on hire or sale to industrialists or persons intending to start industrial undertakings;

(e) to construct buildings for the housing of the employees of such industries;

(f) (i) to allot factory sheds or such buildings or parts of buildings, including residential tenements to suitable persons in the industrial estates established or developed by the Corporation;

(ii) to modify or rescind such allotments, including the right and power to evict the allottees concerned on breach of any of the terms or conditions of their allotment;

(g) to constitute advisory committee to advise the Corporation;

(h) to engage suitable consultants or persons having special knowledge or skill to assist the Corporation in the performance of its functions;

(i) subject to the previous permission of the State Government, to delegate any of its powers generally or specially to any of its committees or officers, and to permit them to re-delegate specific powers to their subordinates;

(j) to enter into and perform all such contracts as it may consider necessary or expedient for carrying out any of its functions; and

(k) to do such other things and perform such acts as it may think necessary or expedient for the proper conduct of its functions and the carrying into effect the purposes of this Act.

15. **Authentication of orders and documents of Corporation.** — All permissions, orders, decisions, notices and other documents of the Corporation shall be authenticated by the signature of the Chief Executive Officer of the Corporation or any other Officer authorised by the Corporation in this behalf.

16. **Directions by the State Government.** — The State Government may issue to the Corporation such general or special directions as to policy as it may think necessary or expedient for the purpose of carrying out the purposes of this Act, and the Corporation shall be bound to follow and act upon such directions.

### CHAPTER IV

#### Finance, Accounts and Audit

17. **Application of Corporation's assets.** — All property, funds and other assets vesting in the Corporation shall be held and applied by it, subject to the provisions and for the purposes of this Act.

18. **Corporation's fund.** — (1) The Corporation shall have and maintain its own fund, to which shall be credited —

(a) all monies received by the Corporation by way of grants, subventions, loans, advances or otherwise;

(b) all fees, costs and charges received by the Corporation under this Act;

(c) all monies received by the Corporation from the disposal of lands, buildings and other properties movable and immovable, and other transactions;

(d) all monies received by the Corporation by way of rents and profits or in any other manner or from any other source including the proceeds of any loan authorised by Section 20

(2) The Corporation may keep in current or deposit account with the State Bank of India or any other Bank approved by the State Government in this behalf such sum of money out of its fund as may be prescribed and any money in excess of the said sum shall be invested in such manner as may be approved by the State Government.

(3) Such accounts shall be operated upon by such officers of the Corporation as may be authorised by it by regulations made in this behalf.

19. **Grants, subventions, loans and advances to the Corporation.** — The State Government may, after due appropriation made by the State Legislature by law in this behalf, make such grants, subventions, loans and advances to the Corporation as it may deem ne-



cessary for the performance of the functions of the Corporation under this Act; and all grants, subventions, loans and advances made shall be on such terms and conditions as the State Government may after consulting the Corporation determine.

**20. Power of the Corporation to borrow.**— The Corporation may, subject to such conditions as may be prescribed in this behalf, borrow money in the open market or otherwise with a view to providing itself with adequate resources.

**21. Deposits.**— The Corporation may accept deposits on such conditions as it deems fit from persons, authorities or institutions, to whom allotment or sale of land, buildings or sheds is made or is likely to be made in furtherance of the objects of this Act.

**22. Reserve and other funds.**— (1) The Corporation shall make provision for such reserve and other specially denominated funds as the State Government may, from time to time, direct.

(2) The management of the funds referred to in sub-section (1), the sums to be transferred from time to time to the credit thereof and the application of money comprised therein, shall be determined by the Corporation.

(3) None of the funds referred to in sub-section (1) shall be utilised for any purpose other than that for which it was constituted, without the previous approval of the State Government.

**23. Expenditure from funds.**— (1) The Corporation shall have the authority to spend such sums as it thinks fit for the purposes authorised under this Act from out of the general fund of the Corporation referred to in section 18 or from the reserve and other funds referred to in section 22 as the case may be.

(2) Without prejudice to the generality of the power conferred by sub-section (1), the Corporation may contribute such sums as it thinks fit towards expenditure incurred or to be incurred by any local authority or statutory public undertaking in the performance, in relation to any of the statutory functions of such authority or undertaking, including expenditure incurred in the acquisition of land.

**24. Budget and programme of work.**— (1) The Corporation shall, by such date in each year as may be prescribed, prepare and submit to the State Government for approval an annual financial statement and the programme of work for the succeeding financial year.

(2) The annual financial statement shall show the estimated receipts and expenditure during the succeeding financial year in such form and detail as may be prescribed.

(3) The Corporation shall be competent to make variations in the programme of work in the course of the year provided that all such variations and reappropriations out of the sanctioned budget are brought to the notice of the State Government by a supplementary financial statement.

(4) A copy each of the annual financial statement and the programme of work and the supplementary financial statement, if any, shall be placed before the Legislative Assembly as soon as may be after their receipt by the State Government.

**25. Accounts and audit.**— (1) The Corporation shall maintain books of account and other books in relation to its business and transactions in such form, and in such manner, as may be prescribed.

(2) The accounts of the Corporation shall be audited by an auditor appointed by the State Government, in the prescribed manner.

(3) As soon as the accounts of the Corporation are audited the Corporation shall send a copy thereof with a copy of the report of the auditor thereon to the State Government.

(4) The State Government shall cause the accounts of the Corporation together with the audit report thereon forwarded to it under sub-section (3) to be laid annually before the Legislative Assembly.

**26. Concurrent and special audit of accounts.**— Notwithstanding anything contained in section 25 the State Government may order that there shall be concurrent audit of the accounts of the Corporation by such persons as it thinks fit. The State Government may also direct a special audit to be made by such person as it thinks fit of the accounts of the Corporation relating to any particular transaction or class or series of transaction or to a particular period.

(2) When an order is made under sub-section (1), the Corporation shall present or cause to be presented for audit such accounts and shall furnish to the person appointed under sub-section (1) such information as the said person may require for the purpose of audit.

#### CHAPTER V

**27. Acquisition of land for the Corporation to be a public purpose.**— Any land required by the Corporation for carrying out any of its functions shall be deemed to be needed for a public purpose and may be acquired under the provisions of the Land Acquisition Act, 1894 or any other law for the time being in force.

**28. Disposal of land by the Corporation.**— (1) Subject to any directions given by the State Government under this Act, the Corporation may dispose of—

(a) any land acquired by the State Government and transferred to it, without undertaking or carrying out any development thereon; or

(b) any such land after undertaking or carrying out such development as it thinks fit, to such persons in such manner and subject to such terms and conditions, as it considers expedient for securing the purposes of this Act.

(2) The powers of the Corporation with respect to the disposal of land under sub-section (1) shall be so exercised as to secure so far as practicable, that—

(a) where the Corporation proposes to dispose of by sale any such land without any development having been undertaken or carried out thereon, the Corporation shall offer the land in the first instance to the person from whom it was acquired, if they desire to purchase it, subject to such requirements as to its development and use as the Corporation may think fit to impose;

(b) persons who are residing or carrying on business or other activities on any such land shall,

if they desire to obtain accommodation on land belonging to the Corporation and are willing to comply with any requirements of the Corporation as to its development and use, have an opportunity to obtain thereon accommodation suitable to their reasonable requirements on terms settled with due regard to the price at which any such land has been acquired from them.

(3) Nothing in this Act shall be construed as enabling the Corporation without the approval of the State Government to dispose of land by way of gift, mortgage or charge, but subject as aforesaid any reference in this Act to the disposal of land shall be construed as a reference to the disposal thereof in any manner, whether by way of sale, exchange or lease or by the creation of any easement, right or privilege or otherwise.

29. Government lands. — (1) For the furtherance of the objects of this Act, the State Government may, upon such conditions as may be agreed upon between that Government and the Corporation, place at the disposal of the Corporation any lands vested in the Government.

(2) After any such land has been developed by, or under the control and supervision of the Corporation, it shall be dealt with by the Corporation in accordance with the regulations made, and directions given by the State Government in this behalf.

(3) If any land placed at the disposal of the Corporation under sub-section (1) is required at any time thereafter by the State Government, the Corporation shall replace it at the disposal of the State Government upon such terms and conditions as may be mutually agreed upon.

#### CHAPTER VI

##### Supplementary and Miscellaneous Provisions

30. Powers of Corporation in case of certain defaults by owner of land in industrial area. — (1) If the Corporation after holding a local inquiry, or upon report from any of its officers or other information in its possession, is satisfied that the owner of any land in an industrial area has failed to provide any amenity in relation to the land which in the opinion of the Corporation ought to be provided or to carry out any development of the land for which permission has been obtained under this Act, the Corporation may serve upon the owner a notice requiring him to provide the amenity or carry out the development within such time as may be specified in the notice.

(2) If any such amenity is not provided or any such development is not carried out within the time specified in the notice, then the Corporation may itself provide the amenity or carry out the development or have it provided or carried out through such agency as it deems fit:

Provided that, before taking any action under this sub-section, the Corporation shall afford reasonable opportunity to the owner of the land to show cause as to why such action should not be taken.

(3) All expenses incurred by the Corporation or the agency employed by it in providing the amenity or carrying out the development together with interest, at such rate as the State Government may by order fix, from the date when a demand for the

expenses is made until payment, shall be recoverable by the Corporation from the owner.

31. Order of demolition of building. — (1) Where the erection of any building in an industrial estate or industrial area has been commenced, or is being carried on, or has been completed, or any existing building is altered, in contravention of the terms on which such building or the land on which it stands is held or granted by or under this Act, or any rules made thereunder any officer of the Corporation empowered by it in this behalf may, in addition to any prosecution that may be instituted under this Act, make an order directing that such erection shall be demolished by the owner thereof within such period not exceeding two months as may be specified in the order, and on the failure of the owner to comply with the order, the officer may himself cause the erection to be demolished and the expenses of such demolition shall be recoverable by the Corporation from the owner:

Provided that, no such order shall be made unless the owner has been given a reasonable opportunity to show cause why the order should not be made.

(2) Any person aggrieved by an order under sub-section (1) may appeal against that order within thirty days from the date thereof to a Committee of the Corporation set up for the purpose by regulations made in this behalf. Such Committee may after hearing the parties to the appeal either allow or dismiss the appeal or reverse or vary the order or any part of it.

(3) The decision of the Committee on the appeal and subject only to such decision the order made by the officer under sub-section (1) shall be final.

32. Power to stop building operations. — (1) Where the erection of any building in an industrial estate or industrial area has been commenced, or is being carried on, has been completed, or any existing building is altered, in contravention of the terms on which such building or the land on which it stands is held or granted under this Act or any rules made thereunder any officer of the Corporation empowered in this behalf may, in addition to any prosecution that may be instituted under this Act, make an order requiring the building operations in relation to such erection to be discontinued on and from the date of the service of the order.

(2) Where such building operations are not discontinued in pursuance of the requisition under sub-section (1), the Corporation or the officer empowered as aforesaid may require any police officer to remove the person by whom the erection of the building has been commenced and all his assistants and workmen from the place of the building within such time as may be specified in the requisition and such police officer shall comply with the requisition accordingly.

(3) After a requisition under sub-section (2) has been complied with, the Corporation or the officer empowered as aforesaid may depute by a written order a police officer or an officer, or employee of the Corporation to watch the place in order to ensure that the erection of the building is not continued.

(4) Any person failing to comply with an order made under sub-section (1) shall, on conviction, be punished with fine which may extend to two hundred

rupees for every day during which such non-compliance continues after the service of the order.

(5) No compensation shall be claimable by any person for any damage or loss which he may sustain in consequence of any order made under this section.

**33. Penalty for construction or use of land and buildings contrary to terms of holding.**—(1) Any person who whether at his own instance or at the instance of any other person undertakes or carries out construction of or alterations to any building in an industrial estate or industrial area contrary to the terms under which he holds such building or land under this Act or any rules made thereunder shall, on conviction be punished with fine which may extend to ten thousand rupees, and in the case of a continuing contravention with a further fine which may extend to five hundred rupees for every day during which such offence continues after conviction for the first commission of the offence.

(2) Any person who uses any land or building in an industrial estate or industrial area contrary to the terms under which he holds such land or building under this Act or any rules made thereunder or in contravention of the provisions of any regulations made in this behalf shall, on conviction, be punished with fine which may extend to five thousand rupees.

**34. Power to lay pipe lines etc.**—(1) Within any area taken up for development under paragraph (b) of clause (ii) of section 13 the Corporation, or any person empowered in this behalf by the State Government by notification in the Official Gazette (hereinafter in this section referred to as «the authorised person»), may for the purposes of (a) carrying gas, water or electricity from a source of supply to the said area or (b) constructing any sewers or drains necessary for carrying off the workings and waste liquids of an industrial process through, any intervening area, lay down, place, maintain, alter, remove or repair any pipes, pipe lines, conduits, supply or service lines, posts or other appliances or apparatus in, on, under, over, along or across any land in such areas.

(2) The Corporation or the authorised person may at any time enter upon any land in any such area and in such event the provisions of section 35 shall *mutatis mutandis* apply.

(3) While exercising the power conferred by sub-section (1), the Corporation or the authorised person shall cause as little damage as possible to property. Full compensation to all persons interested for any damage sustained by them in consequence of the exercise of such power as aforesaid shall be paid, as the case may be, by the Corporation or, in the case of the authorised person, by the State Government.

(4) Nothing herein shall authorise or empower the Corporation or the authorised person to lay down or place any pipe or other works into, through or against any building or in any land not dedicated to public use without the consent of the owners and occupiers thereof, except that the Corporation or such person may at any time enter upon and lay or place any new pipe in the place of an existing pipe in any land wherein any pipe has been already lawfully laid down or placed in pursuance of this Act, and may repair or alter any pipe so laid down;

Provided that, nothing in the aforesaid provision shall be construed to mean that the Corporation or other person is forbidden from having the said land acquired at any time by the State Government in the normal course.

**35. Powers of entry.**—Any officer of Government, any member of the Corporation, and any person either generally or specially authorised by the Corporation in this behalf may enter into or upon any land or building with or without assistants or workmen for the purpose of—

(a) making any inspection, survey, measurement, valuation or enquiry or taking levels of such land or building;

(b) examining works under construction and ascertaining the course of sewers and drains;

(c) digging or boring into the sub-soil;

(d) setting out boundaries and intended lines of work;

(e) marking such levels, boundaries and lines by placing marks and cutting trenches;

(f) doing any other thing necessary for the efficient administration of this Act:

Provided that,—

(i) no such entry shall be made except between the hours of sunrise and sunset and without giving reasonable notice to the occupier, or if there be no occupier to the owner of the land or building;

(ii) sufficient opportunity shall in every instance be given to enable women (if any) to withdraw from such land or building;

(iii) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the land or building entered.

**36. Officers of the Corporation may be vested with other powers.**—The State Government may, by notification in the Official Gazette, nominate any officer of the Corporation to be a controller or licensing authority under any law for the time being in force relating to the procurement or distribution of any commodity in respect of the industrial undertakings established or to be established in the industrial estates or industrial areas entrusted to or developed by the Corporation and no such nomination shall be called into question merely on the ground that such officer is not an officer of the State Government.

**37. Overriding powers of Government to issue directions to local authorities.**—Notwithstanding anything contained in any other law, or in any licence or permit if the State Government is satisfied either on a recommendation made in this behalf by the Corporation or otherwise, that the setting up of an industrial undertaking (whether within an industrial area or outside) is impeded by a local authority's refusal to grant, or by such authority's insistence on conditions which the State Government considers unreasonable for the grant of, any amenity, the State Government may direct the local authority to grant the said amenity on such conditions as it may consider fit; and thereupon the amenity shall be granted:

Provided that, the charge to be paid for granting or continuing such amenity to the local authority

concerned is not less than the cost to the local authority or licensee concerned for providing such amenity;

Provided further that, no such directions shall be issued by the State Government unless the local authority shall have been given a reasonable opportunity to show cause why any such direction should not be made.

**38. Recovery of sums due to the Corporation as arrears of land revenue.** — All sums payable by any person to the Corporation or recoverable by it by or under this Act and all charges or expenses incurred in connection therewith shall, without prejudice to any other mode of recovery, be recoverable as arrears of land revenue on the application of the Corporation.

**39. Service of notices, etc.** — (1) All notices, orders and other documents required by this Act or any rule or regulation made thereunder to be served upon any person shall, save as otherwise provided in this Act or such rule or regulation be deemed to be duly served —

(a) where the person to be served is a company, the service is effected in accordance with the provisions of section 51 of the Companies Act, 1956 (I of 1956);

(b) where the person to be served is a firm, if the document is addressed to the firm at its principal place of business identifying it by the name or style under which its business is carried on, and is either—

- (i) sent under a certificate of posting or by registered post, or
- (ii) left at the said place of business;

(c) where the person to be served is a statutory public body or a corporation or a society or other body, if the document is addressed to the secretary, treasurer or other chief officer of that body, corporation or society at its principal office and is either —

- (i) sent under a certificate of posting or by registered post, or
- (ii) left at that office;

(d) in any other case, if the document is addressed to the person to be served and —

- (i) is given or tendered to him, or
- (ii) if such person cannot be found, is affixed on some conspicuous part of his last known place of residence or business or is given or tendered to some adult member of his family or is affixed on some conspicuous part of the land or building to which it relates, or
- (iii) is sent under a certificate of posting or by registered post to that person.

(2) Any document which is required or authorised to be served on the owner or occupier of any land or building may be addressed to «the owner» or «the occupier» as the case may be, of that land or building (naming that land or building) without further name or description, and shall be deemed to be duly served —

(a) if the document so addressed is sent or delivered in accordance with clause (d) of sub-section (1), or

(b) if the document so addressed or a copy thereof so addressed, is given or tendered to some person on the land or building or, where there is no person on the land or building to whom it can be delivered, is affixed on some conspicuous part of the land or building.

(3) Where a document is served on a firm in accordance with this section, the document shall be deemed to be served on each partner.

(4) For the purpose of enabling any document to be served on the owner of any property, the occupier (if any) of the property may be required by notice in writing by the State Government or the Corporation, as the case may be, to state the name and address of the owner thereof.

**40. Public notices how to be made known.** — Every public notice given under this Act or any rule or regulation made thereunder shall be in writing over the signature of the officer concerned and shall be widely made known in the locality to be affected thereby affixing copies thereof in conspicuous public places, within the said locality, or by publishing the same by beat of drum or by advertisement in a local newspaper, or by any two or more of these means, and by any other means that the officer may think fit.

**41. Notices, etc. to fix reasonable time.** — Where any notice, order or other document issued or made under this Act or any rule or regulation made thereunder requires anything to be done for the doing of which no time is fixed by this Act or the rule or regulation, the notice, order or other document shall specify a reasonable period of time for doing the same or complying therewith.

**42. Furnishing of returns, etc.** — (1) The Corporation shall furnish to the State Government such returns, statistics, reports, accounts and other information with respect to its conduct of affairs, properties or activities or in regard to any proposed work or scheme as the State Government may from time to time require.

(2) The Corporation shall in addition to the audit report referred to in section 25 furnish to the State Government an annual report on its working as soon as may be after the end of each financial year in such form and detail as may be prescribed, and a copy of the annual report shall be placed before the Legislative Assembly as soon as may be after it is received by the State Government.

**43. Withdrawal of area or estate or part thereof.** — Where the State Government is satisfied that in respect of any particular industrial estate or industrial area, or any part thereof, the purpose for which the Corporation was established under this Act has been substantially achieved so as to render the continued existence of such estate or area or part thereof under the Corporation unnecessary, the State Government may, by notification in the Official Gazette, declare that such industrial estate or industrial area or part thereof has been removed from the jurisdiction of the Corporation. The State Government may also make such other incidental arrangements for the administration of such estate or area or part thereof as the circumstances necessitate.

**44. Default in performance of duty.** — (1) If the State Government is satisfied that the Corporation



has made a default in performing of any duty or obligation imposed or cast on it by or under this Act, the State Government may fix a period for the performance of that duty or obligation and give notice to the Corporation accordingly.

(2) If in the opinion of the State Government, the Corporation fails or neglects to perform such duty or obligation within the period so fixed for its performance, it shall be lawful for the State Government to supersede and reconstitute the Corporation, as it deems fit.

(3) After the supersession of the Corporation and until it is reconstituted in the manner laid down in chapter II, the powers, duties and functions of the Corporation under this Act shall be carried on by the State Government or by such officer or officers or body of officers as the State Government may appoint for this purpose from time to time.

(4) All property vested in the Corporation shall, during the period of supersession, vest in the State Government.

**45. Dissolution of Corporation.** — (1) Where the State Government is satisfied that the purposes for which the Corporation was established under this Act have been substantially achieved so as to render the continued existence of the Corporation in the opinion of the State Government unnecessary, the Government may by notification in the Official Gazette declare that the Corporation shall be dissolved with effect from such date as may be specified in the notification, and the Corporation shall be deemed to be dissolved accordingly.

(2) From the said date —

(a) all properties, funds and dues which are vested in, or realisable by, the Corporation shall vest in, or be realisable by, the State Government;

(b) all liabilities which are enforceable against the Corporation shall be enforceable against the Government.

**46. Authority for prosecution.** — Unless otherwise expressly provided, no Court shall take cognisance of any offence relating to property belonging to, or vested by or under this Act in, the Corporation, punishable under this Act, except on the complaint of, or upon information received from the Corporation or some person authorised by the Corporation by general or special order in this behalf.

**47. Composition of offences by Corporation.** —

(1) The Corporation or any person authorised by the Corporation by general or special order in this behalf may, either before or after the institution of the proceedings, compound any offence made punishable by or under this Act.

(2) Where an offence has been compounded, the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of the offence compounded.

**48. Offence by companies.** — (1) Whenever an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, or was responsible to the company for the conduct of, the business of the company, as well as the company, shall be deemed

to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that, nothing contained in this sub-section shall render any such person liable to any punishment under this Act if he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation* — For the purposes of this section —

(a) «company» means any body corporate, and includes a firm or other association of individuals; and

(b) «director», in relation to a firm, means a partner in the firm.

**49. Penalty for obstruction.** — Any person who obstructs the entry of a person authorised under section 35 to enter into or upon any land or building or molests such person after such entry or who obstructs the lawful exercise by him of any power conferred by or under this Act shall, on conviction by a competent court be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**50. Power to make rules.** — (1) The State Government, after consultation with the Corporation in regard to matters concerning it, may, by notification in the Official Gazette, make rules to carry out the purposes of this Act;

Provided that, consultation with the Corporation shall not be necessary on the first occasion of the making of rules under this section, but the State Government shall take into consideration any suggestions which the Corporation may make in relation to the amendment of such rules after they are made.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: —

(a) under section 6, the salary and allowances and honorarium of members of the Corporation;

(b) under section 12, the conditions of appointment and service and the scales of pay of the Chief Executive Officer and Chief Accounts Officer of the Corporation;

(c) under section 18, the sums of money to be kept by the Corporation in current and deposit accounts;

(d) under section 20, the conditions subject to which the Corporation may borrow;

(e) under section 24, the date by which the annual financial statement and programme of work shall be submitted by the Corporation to the State Government and the form and manner of preparing such statement;

(f) under section 25, the manner of maintaining accounts;

(g) under section 42, the form of, and the details to be given in, the annual report;

(h) the fees which may be charged by the Corporation;

(i) any other matter which has to be, or may be, prescribed by rules.

(3) All rules made under this section shall be laid for not less than fourteen days before the Legislative Assembly as soon as possible after they are made, and shall be subject to such modifications as the Assembly may make during the session in which they are so laid, or the session immediately following.

**51. Power to make regulations.** — (1) The Corporation may, with the previous approval of the State Government, make regulations consistent with this Act and the rules made thereunder to carry out, the purposes of this Act, and without prejudice to the generality of this power such regulations may provide for: —

(a) under section 7, the time and place of meeting of the Corporation and the procedure to be followed in regard to the transaction of business at such meetings;

(b) under section 12, the conditions of appointment and service and the scales of pay of officers and servants of the Corporation, other than the Chief Executive Officer and the Chief Accounts Officer;

(c) under section 18, the officer of the Corporation who may operate its accounts;

(d) under section 29, the manner in which Government lands shall be dealt with by the Corporation after development;

(e) under section 31, the committee of the Corporation to hear appeals under that section and the procedure to be followed by it;

(f) under section 33, the additional terms and conditions subject to which lands and buildings in industrial estates and industrial areas may be held or used;

(g) any other matter which has to be, or may be, provided by regulations.

(2) All regulations made under this section shall be published in the Official Gazette and shall be laid for not less than fourteen days before the Legislative Assembly as soon as possible after they are made, and shall be subject to such modifications as the Legislature may make during the session in which they are so laid, or the session immediately following.

**52. Protection of action taken in good faith.** — No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule or regulation made thereunder.

**53. Members, officers and staff of Corporation to be public servants.** — All members, officers and servants of the Corporation shall when acting or purporting to act in pursuance of any of the provisions of this Act, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, (XLV of 1860).

**54. Power to remove doubts and difficulties.** — If any doubt or difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, make provision or give such direction not inconsistent with the express provisions of this Act, as may appear to it to be necessary or expedient for the removal of the doubt or difficulty, and the order of the State Government, in such cases, shall be final.

Secretariat

Panjim,

November 22, 1965.

P. B. VENKATASUBRAMANIAN

Secretary to the Government of Goa,

Daman and Diu.